

13. PUBLIC COMMENT PROCESS FOR FARE INCREASES AND SERVICE REDUCTIONS

BASIC REQUIREMENT

The grantee is expected to have a written copy of a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation services.

AREAS TO BE EXAMINED

1. ***Existence and Application of Locally Developed Process to Solicit and Consider Public Comment***
 - a. Prior to raising fares
 - b. Prior to implementing a major reduction of service.

REFERENCES

1. [49 USC Chapter 53](#), Federal Transit Laws, as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ([SAFETEA-LU](#)).
2. [FTA Circular 9030.1C](#), "Urbanized Area Formula Program: Grant Application Instructions."

QUESTIONS FOR THE REVIEW

1. *Does the grantee have a locally developed process for soliciting and considering public comment prior to a fare increase or a major service reduction? How are these procedures documented? What does the grantee consider to be a “major” service reduction?*

EXPLANATION

The grantee is required to develop a process for soliciting and considering public comment prior to raising fares or implementing major service reductions. The grantee is expected to have a written policy that describes the public comment process. The process should provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction. The policy should describe how such meetings will be conducted and how the results will be considered. The procedures should describe how the grantee will solicit and consider public comments.

A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comment must be given. This requirement only applies when the grantee intends to increase the basic fare structure or decrease service. The law does not require that fare decreases, service increases, or “special fares” be preceded by public comment. In the event no member of the public requests a public meeting, there must be a process by which the grantee solicits public comment (e.g., newspaper/radio advertisements, flyers on buses, etc).

For service decreases, the requirement applies to “major service reductions” only. The grantee should have established guidelines or thresholds for what it considers a “major” change to be. Often, this is defined as a standard, such as:

- elimination of a route;
- reduction of “X” percent of service hours of a route; and/or
- elimination of one or more stops on a route.

Some grantees offer an opportunity for public comment for all service changes; this meets the requirement. Minor service changes do not require a public comment process.

REASON FOR THE QUESTION

49 USC Chapter 53, Section 5307 (d)(1)(I)
FTA C 9030.1C, Ch. V, Section 5.o

SOURCES OF INFORMATION

The grantee should provide its procedures that describe the public participation process and define a major service reduction. These procedures may be a separate stand-alone document or part of a larger set of administrative procedures of the agency or local government.

DETERMINATION

If the grantee has written procedures that reasonably define when public comments will be solicited and how they will be considered, it is not deficient. In cases where a grantee has no written procedures and has carried out a fare increase or major service reduction, the reviewer will need to make a determination based upon the grantee’s actions. If a process has been followed and documented and that process included all of the required elements, the grantee is not deficient. However, if the process did not address all of the required elements, or if documentation is lacking, the grantee is deficient. If the grantee has neither a written procedure nor documentation that a process has been followed, it is deficient. If the grantee has a written process but it does not include all required elements, it is deficient. That is, the grantee has not defined a threshold for what constitutes a major service reduction, has not required fare increases to have a public comment process, or has not specified how comments will be considered. If any of these situations exist, the grantee is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee must modify or prepare written procedures that describe its public participation process for an intended fare increase or major service reduction and send a copy to FTA.

2. *Has the grantee raised a fare and/or carried out a major reduction in service in the past three years? Did the grantee follow its locally developed process for each of these changes? If not, what did the grantee do differently?*

EXPLANATION

Having a written public participation process is not sufficient unless that process is followed. The answers to these questions will help determine whether the process has been followed and how it was implemented in the case of fare increases and/or

major service reductions that have been planned and implemented over the past three years.

Note to Reviewers: this requirement is different than the requirement in the Title VI section of the Triennial Review Contractors' Guide. (See Triennial Review Section 12). The Title VI section is guided by the requirement for grantees in a service area over 200,000 to perform an internal equity evaluation (not public comment process) for "major service changes" (both increases and reductions), as locally defined, and fare changes.

REASON FOR THE QUESTION

49 USC Chapter 53, Section 5307 (d)(1)(I)
FTA C 9030.1C, Ch. V, Section 5.o

SOURCES OF INFORMATION

Ask for a list of any fare increases or service reductions, noting their effective dates, the dates and locations of public notices of proposed changes, and the dates of public meetings, if any, to discuss such changes. Transcripts from public hearings, minutes of board meetings, and staff summaries or other internal memoranda are sources of information to show how a public participation process was followed.

DETERMINATION

If the grantee has not had a fare increase or major service reduction, no additional information is needed in this section. If the grantee has increased fares or reduced service during the past three years and has followed its public participation process, it is not deficient. If the grantee has increased fares or reduced service during the past three years but has not followed its public participation procedures, it is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee should provide FTA with a written assurance that it will implement its written procedures. The grantee also will provide a written explanation of why procedures were not followed.

3. *How were the comments considered in the decision-making process?*

EXPLANATION

In addition to soliciting public comment, the grantee is required to consider these comments as part of its decision-making process. A grantee is not required to change its plans based on the public participation process. However, the grantee – and particularly its policy makers – should give due consideration to comments made by the public.

REASON FOR THE QUESTION

49 USC Chapter 53, Section 5307 (d)(1)(I)
FTA C 9030.1C, Ch. V, Section 5.o

SOURCES OF INFORMATION

Public notices, public hearing transcripts, letters from the public, summaries of public meetings, and board minutes are sources of information to show how the public comment process was followed. Internal working documents also may show the original plans proposed by the grantee compared to the actual plans that were implemented. Changes in these plans can be compared to public hearing transcripts and other sources documenting public participation.

DETERMINATION

If the grantee has evidence that public comments have been considered in its fare increase and service reduction process, the grantee is not deficient. It is not necessary for the grantee to have changed its original plans to be not deficient with this requirement. If public comments have been made, but the grantee does not have evidence that they were considered in the implementation of the final plan, the grantee is deficient.

SUGGESTED CORRECTIVE ACTION

The grantee should change its procedures to incorporate consideration of public comments into the process and document those considerations.